

MV 01-1

Tax Type: Motor Vehicle Use Tax

Issue: Private Vehicle Use Tax – Value Exceeds \$15,000

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

v.

JOHN DOE,

TAXPAYER

**No. 01 ST 0000 and 01 ST 0000
Account No. 00000000
NTL No. 000000000000**

**Kenneth J. Galvin
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. JOHN DOE, appearing *pro se*; Mr. Shepard Smith for the Illinois Department of Revenue.

Synopsis:

On November 13, 2000, the Department of Revenue (hereinafter the “Department”) issued a “Notice of Tax Liability for Vehicle Use Tax” (“NTL”) to JOHN DOE (“taxpayer”) for unpaid vehicle use tax. The basis of the assessment was the Department’s determination that the taxpayer had not paid vehicle use tax on accessories purchased with and attached to a motor vehicle. On November 27, 2000, taxpayer protested the assessment and requested a hearing. An evidentiary hearing was held on April 23, 2001, with the taxpayer testifying. Following a review of the testimony and

the evidence submitted by the taxpayer, it is recommended that the “Notice of Tax Liability for Vehicle Use Tax” be finalized as issued. In support thereof, the following “Findings of Fact” and “Conclusions of Law” are made.

Findings of Fact:

1. On November 13, 2000, the Department issued a “Notice of Assessment For Vehicle Use Tax,” NTL No. 00-000000 0, to the taxpayer for unpaid vehicle use tax in the amount of \$360. (01-ST-0000). On January 12, 2001, the Department issued an “LTR-201 Request for Abatement” to the taxpayer, which stated that the Department had reviewed taxpayer’s correspondence and documentation submitted in response to the NTL, and had determined that the \$360 assessment was valid. The Department also assessed a \$72 late payment penalty and interest. (01-ST-0000). Dept. Gr. Ex. No. 1.
2. On June 6, 2000, taxpayer filed a “RUT-50, Vehicle Use Tax Transaction Return” for a 1999 Chevrolet Monte Carlo. Taxpayer listed the purchase price as \$14,750 and paid \$390 in use tax. On June 7, 2000, the taxpayer paid \$80 to the Secretary of State for “Title and Registration.” Tr. pp. 14-17; Taxpayer’s Gr. Ex. No. 1.
3. The “Bill of Sale” for the 1999 Monte Carlo states that the taxpayer paid \$15,500: \$14,750 for the “auto” and \$750 for “optional equipment, namely alarm, [remote] starter and tinted windows.” The optional equipment was installed on the vehicle when taxpayer purchased it from the seller. Tr. pp. 21-22, 34; Taxpayer’s Ex. No. 4.
4. The National Association of Auto Dealers’ “Official Used Car Guide” for a 1999 Monte Carlo lists the vehicle’s value as \$14,775, which includes a trade in value of

\$13,825, power sunroof value of \$550 and leather seats value of \$400. Tr. pp. 21-25;
Taxpayer's Ex. No. 3.

Conclusions of Law:

The "Vehicle Use Tax" imposes a tax on the privilege of using in Illinois any motor vehicle acquired by gift, transfer or purchase. 625 ILCS 5/3-1001. The statute sets out the appropriate amount of tax due. According to the statute, the tax for a vehicle less than one year old, with a selling price of less than \$15,000, is \$390. The tax for a vehicle with a selling price between \$15,000 and \$19,999 is \$750. *Id.* On June 6, 2000, taxpayer paid vehicle use tax of \$390 for the 1999 Monte Carlo. The Department determined the appropriate tax to be \$750 and assessed the taxpayer the unpaid amount of \$360.

"Selling price" for vehicle use tax purposes is defined as "the consideration received for a motor vehicle...valued in money, whether received in money or otherwise, including cash, credits, service or property." 625 ILCS 5/1-186.5. According to the Department's assessment, the selling price of the motor vehicle was \$15,500, which included the alarm, remote starter and tinted windows.

Taxpayer testified at the evidentiary hearing that the equipment "was on the car when we negotiated for the price and when we picked the car up..." Tr. p. 34. Since the equipment was attached to the vehicle and was an integral part of it at the time of purchase, I must conclude that the selling price of the vehicle was \$15,500. Taxpayer's arguments that "[he] did not have to take the car with [the equipment] on it" or that "it could have been removed" are irrelevant to the determination of "selling price." Tr. p. 34. Also irrelevant is the value given in the "Official Used Car Guide" which does not

include a value for the purchased equipment. The fact of the matter is that the equipment was attached to the vehicle when it was purchased by the taxpayer and, accordingly, the entire \$15,500 constitutes the consideration paid by the taxpayer for the vehicle.

The Notice of Tax Liability issued by the Department is *prima facie* evidence of the correct amount of tax due. 625 ILCS 5/3-1003 incorporating 35 ILCS 105/12 incorporating 35 ILCS 120/4. The Department's *prima facie* case can be overcome upon the taxpayer's production of "competent evidence" identified with its books and records, showing that the Department's determination is incorrect. Copilevitz v. Department of Revenue, 41 Ill. 2d 154 (1968). Taxpayer has failed to overcome the *prima facie* correctness of the NTL, which established the selling price of the vehicle at \$15,500.

Wherefore, for the reason stated above, it is my recommendation that Notice of Tax Liability No. 00-000000 0 be finalized as issued.

June 4, 2001

ENTER:

Kenneth J. Galvin
Administrative Law Judge